

WILDCAT CONSERVATION LEGAL AID SOCIETY

SUMMARY OF FEDERAL CASE LAW

PARTIES/CITATION	CASE SUMMARY
<p>UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA</p> <p>ANIMAL PROTECTION INSTITUTE AND CENTER FOR BIOLOGICAL DIVERSITY</p> <p>v.</p> <p>MARK HOLSTEN, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES, AND MINNESOTA TRAPPERS ASSOCIATION, ET AL.</p> <p>CASE 0:06-CV-03776-MJD-RLE FILED MARCH 31, 2008</p>	<p>In their Amended Complaint, Plaintiffs assert that Defendant, Mark Holsten, in his official capacity as Commissioner of the Minnesota Department of Natural Resources (DNR) has and is violating Section 9 of the Endangered Species Act (ESA) 16 U.S.C. §1538, by authorizing and allowing trapping and snaring activities that take Canada Lynx, which is listed as protected under the ESA. Plaintiffs seek declaratory and injunctive relief to stop these ongoing violations. Cross motions were before the court. Plaintiffs motion for summary judgment was granted. The court found the Commissioner of DNR has and remains in violation of Section 9 of the Endangered Species Act by authorizing trapping and snaring within the range of Canada Lynx in Minnesota. Plaintiffs motion for injunctive relief was granted. DNR shall promptly take all action necessary to ensure no further taking of threatened Canada Lynx by trapping or snaring activities within the core Canada Lynx ranges, including but not limited to: applying for an incidental take permit for Canada Lynx on or before April 30, 2008, and developing and preparing a proposal to be submitted to the court on or before April 30, 2008 to restrict, modify or eliminate the incidental taking of Canada Lynx through trapping activities in the core Canada Lynx ranges. The court will hold an evidentiary hearing if necessary to determine the appropriateness of the proposal. Defendants motions were denied.</p>

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<p>UNITED STATES DISTRICT COURT DISTRICT OF MINNESOTA</p> <p>THE HUMANE SOCIETY OF THE UNITED STATES, ET AL.</p> <p>V.</p> <p>GENE MERRIAM, AS COMMISSIONER OF THE MINNESOTA DEPARTMENT OF NATURAL RESOURCES, ET AL.</p> <p>NO. 06-2922 FILED FEBRUARY 1, 2007</p>	<p>Plaintiffs assert that Minnesota allowed trapping and snaring activities that was causing the death of endangered Canada Lynx in violation of the Endangered Species Act. Plaintiffs and defendants agreed to dismiss the case after various agreements were made including Minnesota's agreement to obtain an incidental take permit from the U.S. Fish and Wildlife Service along with other measures to be implemented to protect the Canada Lynx.</p> <p><i>N.B.</i> This matter is similar to the <i>Animal Protection Institute et. al. v. Mark Holsten, Commissioner of the Minnesota Department of Natural Resources</i>. In this matter, at the time of Plaintiffs motion for summary judgment, it was noted that the Court had not received word from the parties as to whether the Minnesota Department of Natural Resources had in fact filed its application for an incidental take permit with the U.S. Fish and Wildlife Service under its agreement with The Humane Society of the United States.</p>

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<p>UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE</p> <p>ANIMAL PROTECTION INSTITUTE v. RONALD D. MARTIN, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF THE MAINE DEPARTMENT OF INLAND FISHERIES AND WILDLIFE, AND U.S. SPORTSMAN’S ALLIANCE, ET AL.</p> <p>CASE 1:06-CV-00128-JAW FILED OCTOBER 4, 2007</p>	<p>Plaintiff brought suit against Defendants under the Endangered Species Act for allowing the use of certain traps and other activities that was causing the death of endangered Canada Lynx. In the parties Consent Decree and Order, Commissioner Martin shall impose restrictions on trapping activities including: prohibiting the use of certain foothold and cage traps; position of traps with respect to the use of bait; shall not permit the use of snares for any purpose other than to catch beaver and bear unless an incidental take permit explicitly authorizes the use of snares; advise trappers; maintain a telephone hotline to be staffed seven days a week, 24 hours a day during trapping season; trappers are to be made aware of the hotline and advised to call in the event a Canada Lynx is incidentally captured. Upon report, an IF&W employee shall be dispatched immediately to assist in releasing the Canada Lynx. If a Canada Lynx is injured Commissioner Martin shall direct IF&W to be responsible for the rehabilitation of the Canada Lynx and release back into the wild once it is rehabilitated. Commissioner Martin shall establish a network of qualified veterinarians and animal rehabilitators who will provide care for the injured Canada Lynx. These measures must be implemented by the start of the trapping season on October 14, 2007. Commissioner Martin shall direct IF&W to investigate each incidental Canada Lynx trapping and advice the U.S. Fish and Wildlife Service, API, and defendant intervenors regarding the details of each trapping incident and provide supporting documentation. Commissioner Martin shall continue to prohibit the intentional trapping and hunting of Canada Lynx.</p>

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<p>UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MAINE</p> <p>ANIMAL PROTECTION INSTITUTE ET AL v. RONALD D. MARTIN, IN HIS OFFICIAL CAPACITY AS COMMISSIONER OF THE MAINE DEPARTMENT OF INLAND FISHERIES AND WILDLIFE, AND U.S. SPORTSMAN’S ALLIANCE, ET AL.</p> <p>CASE 1:06-CV-00128-JAW FILED OCTOBER 4, 2007</p>	<p>Plaintiffs are ten non-profit environmental organizations dedicated to the conservation of endangered species, including Canada Lynx, brought suit against defendants in their official capacities: Department of Interior, U.S. Fish and Wildlife Service (USFWS), Department of Commerce, Fisheries, National Oceanic and Atmospheric Association, and the Department of Agriculture. In one of two claims, Plaintiffs allege that USFWS violated a 2002 Order of the Court requiring them to explain their finding that “collectively, the Northeast, Great Lakes, and Southern Rockies do not constitute a significant portion of the distinct population segment of the Lynx and therefore should not be listed as endangered under the Endangered Species Act.” (Efforts to secure endangered status for the Canada Lynx and the legal protections for its habitat have been ongoing for more than 20 years. The history of Canada Lynx litigation in federal courts is documented in a <i>Defenders of Wildlife et al. v. Norton et al.</i>, 239 F. Supp.2d 9 (D.D.C. 2002) (<i>Lynx III</i>). On this claim, the court again remanded the case to USFWS so it may clearly and specifically address the finding it was ordered to explain three years ago.</p> <p><i>N.B. On Thursday, February, 28, 2008, The Department of Interior, U.S. Fish and Wildlife Service (50 CFR Part 17) published a proposed rule with notice for comment on the Revised Critical Habitat for the Contiguous United States Distinct Population Segment of the Canada Lynx (Lynx canadensis). (See Federal Register; Vol. 73, No. 40; Pages 10860-10896.)</i></p>

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<p>UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS</p> <p>U.S. v. CARMEL AZZOPARDI ALSO KNOWN AS “CHARLIE AZZOPARDI”</p> <p>2-06-CR-004 FILED JULY 21, 2006</p>	<p>After an arrest warrant was issued in the Northern District of Texas, the United States District Court for the Western District of Oklahoma transferred Defendant Carmel Azzopardi’s case to Texas where he was indicted on four counts of willfully violating the Endangered Species Act. Azzopardi was indicted for fraudulently claiming that his transfers of two clouded leopards, a white tiger cub, two tigers, and two African lions were donations and for transferring the two clouded leopards in interstate commerce. In his plea agreement, Azzopardi pleaded guilty to count four of the indictment that involved the sale and transportation of two clouded leopards in interstate commerce. The court ordered Azzopardi pay a \$25 special assessment, a \$2,000 fine, and placed on probation for three years during which time Azzopardi was barred from transferring, selling, trading, exchanging, giving away, or breeding (except gibbons and chimpanzees) “any endangered or threatened species for any purpose whatsoever without prior written approval of the U.S. Probation Officer.” <i>(See also In re: Charles Azzopardi, WCCLAS Administrative Proceedings Summary.)</i></p>

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<p>UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON</p> <p>U.S. v. FINGER LAKES INTERNATIONAL</p> <p>No. CR 06-286-MO SENTENCING MEMORANDUM FILED JANUARY 2, 2008</p>	<p>On September 13, 2007, Defendant Finger Lakes International pleaded guilty to violating the Endangered Species Act (ESA). Originally, Glen Donnelly, CEO of Finger Lakes International, was charged by indictment with violations of the ESA and The Lacey Act and making false statements for the purchase and transportation of two ocelots through interstate commerce. Finger Lakes International, the successor to Dirk Motorsports which was owned by Donnelly and paid for the two ocelots, pleaded guilty to a misdemeanor information charging violations of the ESA as part of a plea agreement. In March 2002, Donnelly purchased two ocelot kittens from Deborah Walding for \$10,000 and transported them on a commercial airplane to New York after fraudulently declaring that the ocelots were donated to him. The U. S. Attorney recommended 18 months of organizational probation and a \$40,000 monetary penalty at sentencing. The government sought a greater fine than what other defendants received because Donnelly, as agent for Finger Lakes International, refused to accept immediate responsibility for his actions and ran a facility purporting to protect wildlife. The government explained that since Donnelly disregarded the federal laws with which he was familiar, it was necessary “to send a strong message that these types of crimes will be punished severely, particularly when those familiar with the regulations choose to flout them.” (See also <i>U.S. v. Great Cats of the World</i>, <i>U.S. v. Isis Society for Inspirational Studies</i>, <i>U.S. v. Amy Rasmussen</i>, and <i>U.S. v. Jackie Sinott</i>, herein; and <i>In re: Amy Rasmussen and In re: Lorene Vigne</i>, <i>WCCLAS Administrative Proceedings Summary</i>.)</p>

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<p>UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF TEXAS DALLAS DIVISION</p> <p>U.S. v. JAMES BRANDON GARRETSON</p> <p>CIVIL ACTION NO. 3-99CV0667-J FILED MARCH 26, 1999</p>	<p>On September 17, 1996, the United States Department of Agriculture’s Administrative Law Judge issued a “Decision and Order Upon Admission of Facts by Reason of Default” which assessed an \$11,000 penalty; prohibited Defendant James Brandon Garretson from activity requiring a license under the Animal Welfare Act (AWA); and disqualified him for one year from being issued an AWA license. On March 16, 1999, the United States, acting on behalf of the Secretary of Agriculture, filed a complaint requesting that the court enforce the September 17, 1996 decision; entered an order against Garretson; and that judgment in the amount of \$12,636 plus interest and penalties be entered in its favor. The government also sought to have an order entered banning Garretson from dealing in animals until he is able to obtain a license under the AWA. <i>(See also In re: James B. Garretson et al., and In re: James B. Garretson, WCCLAS Administrative Proceedings Summary.)</i></p>
<p>UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON</p> <p>U.S. v. GREAT CATS OF THE WORLD, INC.</p> <p>No. CR 06-314-MO FILED DECEMBER 7, 2007</p>	<p>Defendant Great Cats of the World, Inc., an Oregon corporation formerly doing business in Minnesota as Center for Endangered Cats, was charged with conspiring to violate the Endangered Species Act by purchasing an ocelot from a California non-profit corporation, “Temple of Isis,” and arranging for the ocelot to be transported from California to Minnesota. In their plea agreement, Defendant Great Cats of the World, Inc. stipulated that Craig Wagner, owner of Defendant, purchased an ocelot from “Temple of Isis” in March 2000 and that Defendant failed to obtain a permit authorizing the ocelot’s sale and interstate transportation. The U.S. Attorney recommended that the court fine Defendant Great Cats of the World, Inc. \$10,000 and impose one year probation. <i>(See also U.S. v. Finger Lakes International, U.S. v. Isis Society for Inspirational Studies, U.S. v. Amy Rasmussen, and U.S. v. Jackie Sinott, herein; and In re: Amy Rasmussen and In re: Lorene Vigne, WCCLAS Administrative Proceedings Summary.)</i></p>

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<p>UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA</p> <p>U.S. v. TROY ALLEN HYDE</p> <p>CASE NO. 03-315(6)(ADM/AJB) FILED SEPTEMBER 8, 2005</p>	<p>Defendant Troy Allen Hyde pleaded guilty to knowingly and willfully violating The Lacey Act and the Endangered Species Act. Hyde, on two separate occasions, brought a tiger cub and a tiger from a unlicensed individual and transported both in interstate commerce from Minnesota to Montana. Hyde was sentenced to two years probation to run concurrently for each of the two counts to which he pleaded guilty; ordered to pay a \$50 assessment; and \$10,000 in restitution to be paid to a wildlife fund which the U.S. Attorney and U.S. Fish and Wildlife Service deem appropriate and the court approved. <i>(See also U.S. v. Kraft et al. herein; In re: Animals of Montana, Inc. and In re: Zoocats, Inc. et al., WCCLAS Administrative Proceedings Summary.)</i></p>
<p>UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON</p> <p>U.S. v. ISIS SOCIETY FOR INSPIRATIONAL STUDIES ALSO KNOWN AS “TEMPLE OF ISIS” AND “ISIS OASIS SANCTUARY”</p> <p>No. CR 06-313-MO FILED DECEMBER 26, 2006</p>	<p>Defendant Isis Society for Inspirational Studies, Inc. (Isis), a non-profit corporation operating in Geyserville, California, was charged with conspiring to violate the Endangered Species Act (18 U.S.C. §371 and 16 U.S.C. §1538(f)) by selling six ocelots in interstate commerce without a permit to buyers in Texas, Oregon, Minnesota, and Florida from August 1999 through November 2004. In their plea agreement, Isis stipulated that it and others attempted to conceal the illegal sale and transport of the ocelots by fraudulently characterizing the transfers of the ocelots to the purchasers as “donations” and the payment received from the purchasers as “contributions” to the “Temple of Isis” and “Isis Oasis Sanctuary,” organizations associated with Isis. The U.S. Attorney recommended that the court fine Isis \$60,000 and impose two years probation. <i>(See also U.S. v. Finger Lakes International, U.S. v. Great Cats of the World, U.S. v. Amy Rasmussen, and U.S. v. Jackie Sinott herein; and In re: Amy Rasmussen and In re: Lorene Vigne, WCCLAS Administrative Proceedings Summary.)</i></p>

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<p>UNITED STATES COURT OF APPEALS, SEVENTH CIRCUIT</p> <p>U.S. v. KAPP 419 F.3D 666 (2005, 7TH CIR. (ILL.))</p>	<p><i>Opinion of the Court:</i> Defendant William Kapp was convicted for multiple violations of the Endangered Species Act and The Lacey Act connected with the killing of and trafficking in endangered tigers and leopards. On appeal, Kapp claims he is entitled to a new trial because the evidence at trial was insufficient to support the jury’s verdict and the district court erroneously admitted certain evidence. Kapp also argues that the manner in which he was sentenced violated the Sixth Amendment. The court concluded that there was sufficient evidence to support the jury’s verdict on all counts and the district court did not error in its evidentiary ruling. His conviction was affirmed but a limited remand was ordered to determine whether Kapp should be resentenced. (On remand, the court, based on its consideration of all the relevant factors, concluded it would impose the same sentence.)</p> <p><i>Background:</i> Many people enjoy or support hunting, and many do not. But surely most everyone could agree that the actions of William Kapp were detestable. From 1997 to 1999, Kapp and others purchased, killed, transported, and sold numerous exotic animals, including tigers and leopards, which are protected under the Endangered Species Act. Kapp and others did not hunt any of these animals in the wild. Instead, they shot the animals while they were helplessly confined, sometimes even posing afterwards for safari-style photographs with the carcasses. Kapp made thousands of dollars selling the meat, hides, and other parts of the animals, until the United States Fish and Wildlife Service (USFWS) caught wind of these activities. USFWS then executed “Operation Snowplow,” an undercover sting operation leading to the arrest and conviction of Kapp and his co-conspirators.</p>

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<p>UNITED STATES COURT OF APPEALS, FOR THE EIGHTH CIRCUIT</p> <p>U.S. v. KENNETH GEORGE KRAFT, NANCY LEE KRAFT, MARCUS COOK, TROY ALLEN HYDE, JAKOB LUECK, MERLE MULTHAUF, CRAIG PERRY, AND JAMES F. RIENOW</p> <p>CASE 0:03-CR-00315-ADM-AJB FILED FEBRUARY 13, 2006 UNPUBLISHED NO. 05-2581</p>	<p>Defendants Nancy Lee Kraft and her husband Kenneth Kraft ran a business dealing in wildlife and exotic animals (tiger and leopards), regulated by The Lacey Act among other federal laws. In submitting governmental Form 7020 covering interstate transportation of protected wildlife, the Kraft’s falsely claimed illegal interstate sales of protected wildlife were lawful donations. The Kraft’s were charged with submitting false records for wildlife transported in interstate commerce and conspiracy to submit false records. Kenneth Kraft pleaded guilty and a jury convicted Nancy Lee Kraft of submitting false records and conspiracy and was sentenced to fifteen months in prison. Kraft asserts on appeal that the false forms prepared to do not qualify as records; that she had no warning that submitting false records would subject her to criminal prosecution; and that there was insufficient evidence to support her convictions. The court disagreed with her assertions explaining that making or submitting false records is illegal regardless of whether there is a duty to submit the records; they chose to provide specific information about the transactions and did so to hide their illegal conduct; the statute plainly states that it is unlawful to submit a false record for any wildlife that is transferred in interstate commerce. Kraft told one buyer that his 7020 form was marked donation to avoid raising any red flags when the Krafts were inspected by the USDA—especially with respect to the leopards—which she acknowledged were protected and could not be legally sold interstate. The Krafts’ records indicate that the transactions were sales. Thus her conviction was affirmed. (See also <i>U.S. v. Troy Allen Hyde herein</i>; and <i>In re: Animals of Montana, Inc. and In re: Zoocats, Inc. et al., WCCLAS Administrative Proceedings Summary.</i>)</p>

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<p>UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MINNESOTA</p> <p>U.S. v. PA LOR AND TIA LEE YANG</p> <p>08CR-150(1)(JNE/FLN FILED JANUARY 13, 2009</p>	<p>On January 13, 2009, Defendants Pa Lor (Lor) and Tia Yang (Yang) (mother and daughter, respectively) of Minnesota were sentenced for conspiracy to smuggle wildlife into the United States in violation of Title 18, United States Code, Sections 371 and 545. In total, 1,388 parts and pieces of wildlife were confiscated from Lor’s luggage as she attempted to smuggle the parts through the Minneapolis/St. Paul International Airport from Laos in order to sell them at a booth leased by Yang at the International Market Place, located in St. Paul, that was managed and operated by Lor. The items confiscated included parts of clouded leopard, leopard cat, rusty-spotted cat, and unknown non-domestic felids, as well as many other varieties of international endangered and protected species. Both Defendants were sentenced to two years probation. Additionally, Yang was sentenced to five months home confinement, 40 hours of community service, and ordered to pay a \$9,000 fine. Lor agreed to work with federal officials to develop education materials designed for the Hmong community.</p> <p><i>(In a news release issued by U.S. Fish and Wildlife Service, Special Agent Sheila O’Connor stated that “[o]ne of the fastest ways to cause a species to go extinct is to commercialize it.”)</i></p>
<p>UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON</p> <p>U.S. v. AMELIA RASMUSSEN</p> <p>PLEA AGREEMENT FILED MARCH 20, 2007</p>	<p>Defendant Amelia Rasmussen pleaded guilty to willfully violating the Endangered Species Act after purchasing and transporting two ocelots from the “Temple of Isis” and fraudulently claimed that the ocelots were donated to her. Rasmussen was sentenced to serve one year probation and pay a \$15,000 “Community Service Payment” to the Oregon Zoo. <i>(See also U.S. v. Finger Lakes International, U.S. v. Great Cats of the World, U.S. v. Isis Society for Inspirational Studies, and U.S. v. Jackie Sinott herein; and In re: Amy Rasmussen and In re: Lorene Vigne, WCCLAS Administrative Proceedings Summary.)</i></p>

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<p>UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA</p> <p>U.S. v. RUZIAL LTD.</p> <p>0960088-CR-DIMITROULEAS FILED MAY 11, 2009</p>	<p>Defendant Ruzial Ltd., a Cayman Islands corporation, pleaded guilty to willfully violating the Endangered Species Act, after attempting to import and transport approximately 29 wildlife items including, in part, a mounted head of a tiger, a tiger skin, leopard hide rugs, a jaguar rug, a jaguar hide, a lion rug and a full size lion mount. Ruzial was ordered to pay a \$50,000 criminal fine to The Lacey Act Reward Fund and to pay \$100,000 to the National Fish and Wildlife Foundation. Ruzial was ordered to forfeit the 29 items of contraband wildlife to the United States.</p> <p><i>(In a news released issued by U.S. Fish and Wildlife Service, Harold Woodward, Director of Field Operations, U.S. Customs and Border Protection, stated that “[t]he illegal importation and collection of these items contributes to their extinction and deprives us all.”)</i></p>
<p>UNITED STATES DISTRICT COURT FOR THE DISTRICT OF OREGON</p> <p>U.S. v. JACKIE SINOTT</p> <p>No. CR 06-311 MO FILED DECEMBER 10, 2007</p>	<p>Defendant Jackie Sinott was charged with violating the Endangered Species Act, when she purchased an ocelot from the “Temple of Isis,” transported the cat in interstate commerce, and fraudulently claimed that the ocelot was a donation. Defendant Sinott agreed to enter a pre-trial diversion agreement requiring her to pay a \$10,000 fine to the Oregon Zoo Endangered Species Justice Fund. Additionally, since Defendant obeyed all state and federal law for six months and met other conditions, the United States moved to dismiss the charges. <i>(See also U.S. v. Finger Lakes International, U.S. v. Great Cats of the World, U.S. v. Isis Society for Inspirational Studies, and U.S. v. Amy Rasmussen herein; and In re: Amy Rasmussen and In re: Lorene Vigne, WCCLAS Administrative Proceedings Summary.)</i></p>